

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ROY KELLNER,

Plaintiff,

v.

LAKEVIEW LOAN SERVICING, LLC,
CENLAR FSB, d/b/a CENTRAL LOAN
ADMINISTRATION AND REPORTING, and
M&T BANK CORPORATION, et al.,

Defendants.

Case No. 17-cv-04048

Judge: John Z. Lee

**DEFENDANT'S AMENDED MOTION TO RESTORE
ITS MOTION TO DISMISS AND FOR LEAVE TO FILE ITS REPLY INSTANTER**

Defendant CENLAR, FSB (“Defendant” or “Cenlar”) by and through its attorneys David M. Schultz and Margaret M. Breeden, and in support of its Amended Motion to Restore its Motion to Dismiss and for Leave to File its Reply, *Instanter*, states as follows:

1. On May 29, 2017, Plaintiff filed its original Complaint in the instant matter. (*See* Dkt #1). Thereafter, on or about July 26, 2017, Defendant Cenlar filed a Motion to Dismiss Plaintiff’s Complaint (the “Motion”), and Plaintiff subsequently filed its Response. (Dkt. # 29).

2. On September 20, 2017, and one day before Cenlar’s Reply on the Motion was due, Plaintiff filed a Motion for Leave to file its Amended Complaint (Dkt. # 44) which was subsequently granted on September 22, 2017. (Dkt. # 46). Within its Order, the Court dismissed Defendant Cenlar’s pending Motion without prejudice due to the filing of the Amended Complaint. *Id.*

3. Plaintiff's Amended Complaint does not add any new claims as against Defendant Cenlar¹.

4. Therefore, Defendant Cenlar requests that its July 26, 2017 Motion to Dismiss be restored to the record, along with Plaintiff's Response thereto. Additionally, Defendant requests leave to file its Reply in Further Support of its Motion to Dismiss *instantly*.

5. Given the early stages of the proceedings, no prejudice will result to Plaintiff nor any other party if Defendant's Motion is granted. Further, restoring Defendant's Motion to Dismiss to the Court's calendar, rather than requiring its re-filing and re-briefing, will conserve the time and resources of the parties and this Court.

WHEREFORE, Defendant Cenlar, FSB respectfully requests that this Court grant its request to restore its Motion to Dismiss to the Court's docket and for leave to file *instantly* its Reply in Further Support of its Motion to Dismiss.

Respectfully submitted,

CENLAR, FSB,
DEFENDANT

/s/ Margaret M. Breeden

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¹ Plaintiff voluntarily withdrew its claim of Negligent Infliction of Emotional Distress as against Cenlar within its Response to Defendant Cenlar's Motion to Dismiss. (See P's Resp., Dkt # 38, pg. 11).

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2017, I electronically filed with the Clerk of the U.S. District Court, Northern District of Illinois Eastern Division, the foregoing **Amended Motion to Restore its Motion to Dismiss and for Leave to File its Reply, *Instantly*** by using the CM/ECF system, which will send notification of such filing(s) to:

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